

CLEARWIRE CORPORATION
2000 Pennsylvania Avenue, NW
Suite 4400
Washington, DC 20006

May 27, 2004

Via Electronic Filing

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the
Commission's Rules to Facilitate the Provision of
Fixed and Mobile Broadband Access, Education
and other Advanced Services in the 2150-2162 and
2500-2690 MHz Bands, WT Docket No. 03-66
Notice of Ex Parte Presentation

Dear Ms. Dortch:

On May 24, 2004, Gerard Salemmé and Nadja Sodos-Wallace of Clearwire Corporation, ("Clearwire") met with Barry Ohlson of Commissioner Adelstein's office.¹ They discussed Clearwire's business plan. Specifically, they discussed how Clearwire and its affiliated companies intend to use Multipoint Distribution Service ("MDS") and Instructional Television Fixed Service ("ITFS") frequencies to launch a new wireless service that provides broadband voice and data to residential customers in both urban and rural areas as a low cost alternative to the broadband access provided by incumbents. They also discussed the need for the Commission to adopt rules that discourage warehousing of this spectrum. To that end, Clearwire discussed its belief that a substantial service requirement be adopted. Clearwire supports the Commission proposal to establish a high power band so that educational entities can continue to use their ITFS spectrum for educational purposes. In markets where eligible ITFS entities opt to exclusively provide their educational service through low power operation Clearwire recommends the adoption of a transition mechanism to reassign the reserved high power band segment in those markets for low power uses as high power uses are migrated out of the band. It also discussed its support for continued ITFS eligibility restrictions.

¹ Clearwire is aware that under the Commission's rules, this notice should have been filed one business day after the meeting. Due to an oversight, that did not occur. To the extent necessary, Clearwire requests a waiver of that rule to permit this letter to be included in the record.

Finally, Clearwire would like to recommend that the Commission adopt, as it has done elsewhere, a procedure that will maintain at least three competitors in a frequency band. *See, e.g., Amendment of the Commission's Space Station Licensing Rules and Policies*, FCC 00-102, 18 FCC Rcd 10760, 10788-10789 (2003). The Commission has previously found that the same “factors that have led courts to disfavor mergers to duopoly also support establishing a procedure that will maintain at least three competitors in a frequency band...” *Id.* at 10789. During the process of analyzing the spectrum that Clearwire has access to, Clearwire has found itself in the position of being blocked in by incumbent operators and licensees. For example, in a market where Clearwire has access to eight channels, it still needs consents from the remaining interleaved channel groups, which are owned by or leased to another entity which may be unwilling to grant such consent. Or Clearwire wishes to launch a system in a particular market, but all of the spectrum in that market is owned by or leased to another entity which is unwilling to grant us access, despite the fact that they do not require all of that spectrum for their system or are not actually using all of the spectrum. The Commission must provide new entrants with the ability to access spectrum and provide services.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, this presentation is being filed electronically. Should any questions arise concerning this matter, kindly contact the undersigned.

Sincerely,

/s/ R. Gerard Salemmme

R. Gerard Salemmme

cc: Barry Ohlson